The Office has retained its rejection of Claims 1-6 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Sawan et al. Applicant does not understand the basis of such a rejection since there is, initially, no actual anticipatory teaching of the claimed invention anywhere within the four corners of the Sawan et al. reference. It is axiomatic within the realm of patent law that an anticipation-based rejection requires a specific disclosure of the same exact subject matter as presently claimed. Applicant has shown, unequivocally, that the closest teaching, being patentees' actual preferred embodiment within Example 3, but applied to a fabric, does not meet the current claim limitations. There is no specific teaching to a fabric within the preferred embodiments (i.e., actual specific teachings) of Sawan et al., let alone a fabric treated with any amount of silver (or other metal) that meets the same limitations as now claimed. At best, though not agreed to by Applicant, this reference provides basis for an obviousness rejection. Retention of such an improper anticipatory rejection is thus respectfully requested.

However, beyond such a simple issue as determining the proper basis of rejection, the declaratory evidence provided by Applicant was ample to overcome any basis of rejection, whether it be anticipatory or obvious. In order to determine unexpected results in view of prior art, Applicant was merely required to compare the preferred embodiment teachings of the Sawan et al. reference to their claimed invention. By definition, Sawan et al. believed that their Example 3 (with 0.05% silver iodide concentration immersion bath) was the best overall treatment for their particularly disclosed substrate. In fact, the other preferred embodiments required the same silver iodide concentration immersion bath. Furthermore, and of great

importance, such an amount (0.05%) apparently saturated the available sites of patentees' required binder agent because an ethanol wash was further required to remove all excess silver iodide unbound to any substrate surface. Such a teaching implies that any excessive amounts of silver iodide (i.e., greater than 0.05%) within the immersion bath would also go unbound to the specific substrate surface which, in turn, would add nothing further to the durability thereof. The Office's requirement that the supplied declaratory evidence is insufficient in view of the suggestion that 0.5% silver iodide concentration immersion baths may be utilized is thus unfounded and improper. There is a reason why Sawan et al. stated that 0.05% concentration silver iodide was their preferred amount of such compound applied to the treated surfaces via immersion; this has been totally disregarded by the Office. Applicant thus restates his position that the affidavit of co-inventor David E. Green showing that the retention of silver through the preferred procedures of patentee does not rise to the level as now claimed is proper and sufficient to overcome either the improperly applied anticipatory basis of rejection or, particularly, any obviousness basis of rejection over the present claims. There is simply no motivation provided by Sawan et al. to produce the same durable metal-treated fabrics as now claimed. Reconsideration and withdrawal of any basis of rejection in view of Sawan et al. are thus earnestly solicited.

CONCLUSION

In view of the arguments presented above, it is respectfully requested that all rejections over the pending claims be withdrawn and the application be passed on to issue.

Respectfully submitted,

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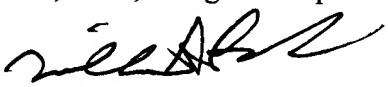
William S. Parks
Attorney for Applicant
Registration Number 37, 528
Telephone: (864) 503-1537

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Box Non-Fee Amendment, Commissioner for Patents, Washington, DC 20231, on December 4, 2002, along with a postcard receipt.



William S. Parks
Attorney for Applicant